



Crl.R.C.No.914 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-04-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL RC No. 914 of 2024

and

CRL MP No.7805 of 2024

D.Sankar Kumar

.... Petitioner

Vs

1. The State represented by,
The Inspector of Police,
W26, All Women Police Station,
Ashok Nagar, Chennai – 83.

2. J.S.Santhoshini

[R2 impleaded as per order dated 03.10.2024
made in Crl.M.P.No.13324 of 2024 in
Crl.R.C.No.914 of 2024]

.... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Cr.P.C., to call for the records relating to Crl.M.P.No.211 of 2024 in C.C.No.312 of 2021 on the file of the learned Metropolitan Magistrate, Saidapet, Chennai passed by order dated 29.4.2024 and to set aside the same and by discharging the petitioner from all charges.



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For Petitioner : Mr.R.Ravichandran
For R1 : Mr.S.Sugendran
Additional Public Prosecutor
For R2 : Mr.R.Sankarasubbu

O R D E R

This Criminal Revision Petition has been filed to call for the records relating to the order dated 29.4.2024 passed in Crl.M.P.No.211 of 2024 in C.C.No.312 of 2021 on the file of the learned Metropolitan Magistrate, Saidapet, Chennai and to set aside the same by discharging the petitioner from all charges.

2. Heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the first respondent-Police, and the learned counsel appearing for the private respondent and perused the materials available on record.

3. The respondent-Police registered a case against the petitioner and his parents in Crime No.4 of 2020 for the offences under Sections 498(A), 294(b) and 506(i) of the Indian Penal Code. After completion of



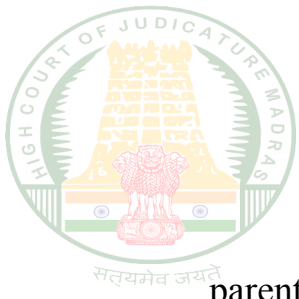
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investigation, charge sheet has been filed and the same was taken on file in C.C.No.312 of 2021 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai. Pending case, parents of the petitioner/A2 and A3 filed a Criminal Original Petition in Crl.O.P.No.7457 of 2021 before this Court. This Court vide order dated 22.09.2022, quashed the proceedings in C.C.No.312 of 2021 as against them. Hence, the petitioner alone is the sole accused in the said case. Subsequently, the petitioner filed a petition in Crl.M.P.No.211 of 2024 in C.C.No.312 of 2021 under Section 239 Cr.P.C., before the Court below seeking to discharge him from the said case and the same was dismissed vide impugned order dated 29.4.2024. Hence, the petitioner is before this Court.

4. Learned counsel appearing for the petitioner submitted as follows:

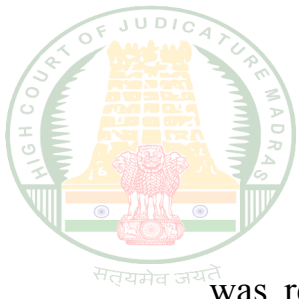
(a) Marriage between the petitioner and the second respondent was solemnized on 04.06.2015. From the very next day of marriage, the second defendant/defacto complainant told the petitioner that she was not interested in the matrimonial life and she left the matrimonial home. Her



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parents prevailed upon her to joint the petitioner. The petitioner and his parents requested her not to go for job as she was undergoing treatment for pregnancy. Hence, she consumed mosquito repellent while she was at her parental home. The defacto complainant behaved abnormally and she created problem often and fought with the petitioner without any valid reason. The defaco complainant used to threat the petitioner that she would commit suicide, if she was not allowed to go to her parents home. During October 2016, when the petitioner refused the defacto-complainant to go to her parents home, she created a problem at 1.00 am and further, she went to the top floor of the petitioner's house and threatened that she would commit suicide by jumping from the upstairs. The petitioner informed this act of the defacto complainant to her parents. On 20.08.2017, she took all her jewels, certificates, belongings and left from the matrimonial home and did not return. Though much efforts have been taken by the petitioner to bring her to matrimonial home, she was not interested to live with the petitioner. Hence the petitioner issued a legal notice, for which, the defacto complainant sent a reply notice on 9.03.2019 with false allegations and also stated that she



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was ready to joint with the petitioner. Hence, the petitioner issued a rejoinder notice on 10.04.2019. Later, they reunited in the month of June 2019. Thereafter, she underwent IUI treatment for conception. The doctor advised her to take rest. The petitioner has also advised her to take complete rest, whereas, she refused as she was not interested to give birth to a child. The defacto complainant made several attempts to commit suicide and on one occasion, she was admitted in Maya Nursing Home. On 16.11.2019, the defacto complainant lodged a complaint before J3 Police Station, against the petitioner and his parents alleging that the petitioner demanded a sum of Rs.3 Lakhs. Even in the police station, the defacto complainant's mother informed that the defacto complainant is willing to go for mutual divorce. During enquiry, the defacto complainant refused to live with the petitioner and demanded her jewels back. On 14.12.2019, the petitioner handed over all her gold jewels and silver articles.

(b) The petitioner and his parents moved anticipatory bail in CrI.O.P.No.533 of 2020 under Section 438 of the Cr.P.C., before this Court against the complaint lodged by the defacto-complainant/second



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respondent in CSR No.119 of 2019 and this Court vide order dated 20.01.2020 closed the petition on the ground that after enquiry, said complaint was closed. Suppressing the said fact, the defacto-complainant has given another complaint on 30.12.2019 for the very same cause of action and the same was forwarded to the Commissioner of Police.

(c) The defacto complainant/second respondent lodged a false complaint in Crl.M.P.No.461 of 2020 before the learned XVII Metropolitan Magistrate, Saidapet, Chennai under Section 156(3) Cr.P.C., The learned Metropolitan Magistrate directed the respondent Police to register a case without knowing the closure of the earlier complaint.

(d) The petitioner has also filed a divorce petition under Section 13(1)(i-a) of the Hindu Marriage Act, in HMOP NO.98 of 2020 before the II Additional Family Court, Chennai. Pending OP, the respondent police registered a case against the petitioner and others based on the complaint given by the defacto complainant, for the offences under Sections 498(A), 294(b) and 506(i) of the IPC.



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(e) Further, the petitioner and his parents moved an anticipatory bail before the Principal Sessions Court, Chennai in Crl.M.P.No.4904 of 2020. While granting anticipatory bail, the Principal Sessions Court observed the closure of earlier complaint filed by the defacto complainant in CSR No.119 of 2019 and also the acknowledgement of receipt of jewels and articles of the defacto complainant. Without considering the same, the respondent-Police filed a charge sheet as against the petitioner and the same was taken on file in C.C.No.312 of 2021.

(f) The petitioner moved a discharge petition before the learned XVII Metropolitan Magistrate, Chennai. The learned Magistrate failed to consider the conduct and attitude of the defacto complainant ie., suicidal attempts made by the defacto complainant/second respondent and also the closure of earlier complaint filed in CSR No.119 of 2019, dismissed the petitioner's petition.

(g) Initially, the defacto complainant was ready to give divorce on mutual consent. In order to torture the petitioner, she made a complaint



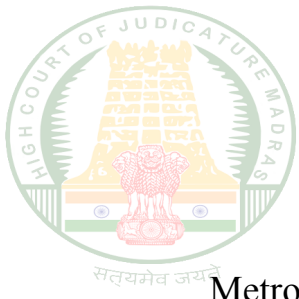
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once again against the petitioner and his parents. The case against the parents-in-law of the defacto complainant was quashed by this Court in Crl.O.P.No.7457 of 2021 on 22.09.2022.

(h) The first respondent-Police failed to consider the fact that the cause of action was already settled and the earlier complaint filed by the defacto complainant was closed, suppressing this fact, the defacto complainant made a fresh complaint, after filing the petition for divorce. Since the defacto complainant was not interested in the matrimonial life, she deserted the matrimonial home without any valid reason and she got back all her jewels and articles provided during her marriage. Once for all, she left from the matrimonial home, there is no question of cruelty caused by the petitioner under Section 498(A) of the IPC.

(i) Statement recorded by the police from the witnesses, reveal that earlier complaint in CSR No.119 of 2019 was closed and the defacto complainant received all her articles and further she was residing with her parents and a complaint filed against her parents-in-law was quashed. There is no prima facie material available as against this petitioner to prosecute the case. The respondent-Police as well as the learned



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Metropolitan Magistrate failed to consider the history of the case and attitude of the defacto complainant/second respondent. In order to avoid the matrimonial proceedings, the defacto complainant/second respondent had made a false complaint as against the petitioner. Further, there is no prima facie material available to show that the petitioner caused cruelty towards the defacto complainant/second respondent and there is no materials available to proceed the case as against the petitioner.

5. Learned counsel for the second respondent/defacto complainant submitted that based on the complaint given by the defacto complainant/second respondent, the respondent Police registered a case as against the petitioner and her parents-in-law. After completion of investigation, charge sheet has been filed before the Court below and the same was taken on file in C.C.No.312 of 2021. The petitioner herein was arrayed as A1. However, the petitioner's parents/A2 and A3 filed a Criminal Original Petition in Crl.O.P.No.7457 of 2021 to quash the proceedings in C.C.No.312 of 2021 against them. This Court vide order dated 22.09.2022 quash the said proceedings as against them. Hence, the



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petitioner, who is the sole accused in the said case has filed a petition in Crl.O.P.NO.17779 of 2023 before this Court, seeking to quash the case in C.C.NO.312 of 2021 as against him. This Court, while disposing the O.P. On 14.08.2023, directed the petitioner to approach the trial court. Hence, the petitioner filed a discharge petition before the learned XVII Metropolitan Magistrate in Crl.M.P.No.211 of 2024. Though the learned Metropolitan Magistrate discharged the petitioner from the charges under Section 294(b) and 506(i) of the IPC, had not discharged the petitioner for the commission of offence under Section 498(A) of the IPC, since there is prima facie material available to proceed the case. Further, the learned Magistrate rightly dismissed the discharge petition filed by the petitioner. There is no merit in the revision petition and the same is liable to be dismissed. While disposing the discharge petition, the Court has to see the materials placed by the prosecution and not the defence taken by the petitioner/accused.

6. This Court has carefully considered the submissions made by

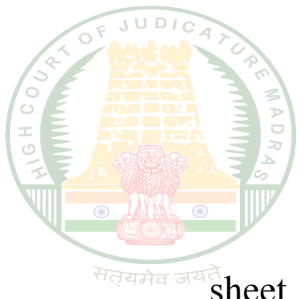


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the learned counsel for the petitioner, learned counsel for the private respondent and the learned Additional Public Prosecutor appearing for the first respondent-Police and perused the materials available on record and more particularly the impugned order.

7. The relationship between the parties is not in dispute. Admittedly, the defacto complainant/second respondent had preferred a complaint as against the petitioner and her parents-in-law. Based on the complaint, CSR No.119 of 2019 was issued and subsequently, the same was closed. Based on the closure of the said complaint, anticipatory bail filed by the petitioner in Crl.O.P.No.533 of 2020 was also closed by this Court vide order dated 10.01.2020. Once again, the defacto complainant/second respondent had given a complaint before the XVII Metropolitan Magistrate, Saidapet, Chennai under Section 156(3) of the Cr.P.C in Crl.M.P.NO.461 of 2020. Based on the complaint, the learned XVII Metropolitan Magistrate, directed the first respondent-Police to register an F.I.R. Accordingly, the respondent-Police registered a case in Crime No.4 of 2020 and after completion of investigation, filed a charge

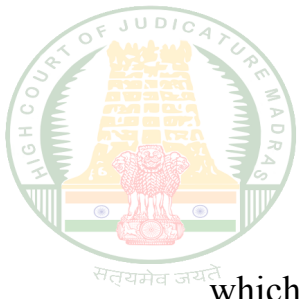


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sheet. The parents of the petitioner moved this Court in Crl.O.P.NO.7457 of 2021 for quashing the case against them and the same was allowed on 22.09.2022.

8. The petitioner married the defacto complainant/second respondent. Due to a quarrel arose between the petitioner and the defacto complainant/second respondent, the defacto complainant/second respondent made several attempts to commit suicide. For one reason or the other, the petitioner and the second respondent did not lead the matrimonial life peacefully. The second respondent preferred a complaint before the Inspector of Police, Guindy Police Station which was registered as CSR NO.931 of 2019. Subsequently, there was a compromise talk in the police station and based on which, she has take back all her belongings. Subsequently, she had preferred a complaint before the first respondent herein. The petitioner had also filed HMOP No.98 of 2020 before the learned II Additional Family Court, Chennai. At that stage, the de-facto complainant had filed Crl.M.P.No.461 of 2020 before the XVII Metropolitan Magistrate, Saidapet, Chennai, based on



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which, F.I.R in Crime NO.4 of 2019 was registered and subsequently on completion of investigation, charge sheet was filed in C.C.No.312 of 2021. The parents of the petitioner/A2 and A3 had filed a petition in CrI.O.P.No.7457 of 2021 seeking to quash the case in C.C.No.312 of 2021 as against them and the same was allowed on 22.09.2022 by this Court.

9. Hence, the petitioner is the sole accused in the case in C.C.NO.312 of 2021, has filed a petition under Section 239 of the Cr.P.C in CrI.M.P.NO.211 of 2024 before the XVII Metropolitan Magistrate Court, Saidapet, Chennai. The trial court vide order dated 29.04.2024 observed that commission of offence under Sections 294(b) and 506(i) of the IPC are not made out, except the offence under Section 498(A) of the IPC.

10. On a reading of the materials show that the defacto complainant/second respondent received all her articles and now she is staying with her parents. Notice was sent for re-union and she went to matrimonial home and once again, she started quarrel with the petitioner. Further, the petitioner filed HMOP No.98 of 2020 before the II



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Additional Family Court, Chennai and the same is pending.

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11. Considering the entire materials produced along with the charge sheet, this Court finds that there is no prima facie materials available to prosecute the case as against the petitioner for the offence under Section 498(A) of IPC. The statement recorded under Section 161 Cr.P.C., shows that the earlier complaint filed by the second respondent was closed and she had taken back all her jewels and belongings. The second respondent created trouble to the petitioner and his parents. This Court finds that there is no prima facie material available to proceed the case against the petitioner. Hence, the petitioner is entitled for discharging him from the offence under Section 498(A) of the IPC. The second respondent is not in her matrimonial home and now she is staying in her parents home. There are exchange of notices between the petitioner and the second respondent and matrimonial O.P is also pending. Hence there is no question of harassment of cruelty made out by the petitioner for the offence under Section 498(A) of the IPC.

12. In view of the same, this Criminal Revision Petition is



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allowed. The impugned order dated 29.04.2024 passed in CrI.M.P.No.211 of 2024 in C.C.No.312 of 2021 by the XVII Metropolitan Magistrate, Saidapet, Chennai is set aside. The petitioner is discharged from the proceedings in C.C.No.312 of 2021. Consequently, connected miscellaneous petition is closed.

30.04.2025

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Metropolitan Magistrate, Saidapet, Chennai
2. The Inspector of Police,
W26, All Women Police Station,
Ashok Nagar, Chennai – 83.
3. The Public Prosecutor,
High Court, Chennai.

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P.VELMURUGAN, J.

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**Crl.R.C.No.914 of 2024
and
Crl.M.P.No.7805 of 2024**

30.04.2025